

CHAPTER 1 GENERAL

Section I. PURPOSE, SCOPE, AND DEFINITIONS

1. Purpose

This manual provides a compilation of principles and procedures to assist commanders and their staffs in the acquisition, utilization, administration, and disposal of real estate and related property in overseas commands. It also presents guidance and suggested techniques for personnel responsible for real estate management in overseas areas not a part of the United States or its territories.

2. Scope

This manual describes suggested methods and procedures for the acquisition, management, utilization, and disposal of real estate and related property in overseas areas not a part of the United States or its territories, in accordance with laws, treaties, agreements, and regulations. It describes the composition, responsibilities, and duties of typical real estate organizations and discusses inventory methods, condition surveys, claims processing, and the techniques of record keeping. Typical forms which may be modified by overseas commanders as required are illustrated. The duties and responsibilities of commanders occupying or utilizing real estate also are discussed.

3. Definitions

For the purpose of this manual basic real estate terms are defined as follows:

a. Real Estate. Lands and interests therein; leaseholds; buildings; improvements and appurtenances thereto, including piers, docks,

warehouses, rights-of-way and easements, whether temporary or permanent; and improvements permanently attached thereto.

b. Equipment in Place. Movable personal property consisting of—

- (1) Capital equipment consisting of items with a useful life of more than 1 year and a value of \$100 or more per item.
- (2) Items of supply which do not meet the criteria for capital equipment, but which cannot be classified as expendable and have been fixed in place or attached to real property for special purposes.

c. Alterations. Additions, deletions, modifications, or other changes made to adapt the premises to a specific use. Alterations may add or detract from the value of the premises, depending upon the purpose for which the structure was originally intended or employed or the condition of the premises at the time of taking.

d. Improvements. Additions, deletions, alterations, or other changes which tend to increase the value of the property.

e. Lease. A conveyance of interest in real estate for a term of years, revocable at will or as otherwise provided in the instrument, in consideration of a return of rent.

f. Easement. An acquired privilege or right of use in the land of another, such as rights of passage, rights-of-way for pipelines, electric distribution lines, and other purposes not requiring the execution of a lease agreement.

Section II. RESPONSIBILITY FOR REAL ESTATE

4. Chief of Engineers

The Chief of Engineers, by AR 405-10, as the Department of the Army staff officer responsible for real estate functions, exercises staff supervision over Army real estate activi-

ties in overseas commands. He is responsible for—

a. Providing technical advice and assistance, as directed by the Headquarters, Department of the Army, or as required by overseas commanders.

b. Initiating and maintaining the record and reporting systems necessary to administer his responsibilities in the overseas areas.

c. Issuing instructions and conducting inspections and staff visits to insure that overseas real estate activities are conducted in accordance with applicable directives, policies, and regulations.

d. Reviewing overseas real estate data, including estimates, justifications, records, and reports.

5. Oversea Commanders

Overseas commanders are responsible for—

a. Determining real estate requirements.

b. Planning, executing, and analyzing real estate operations in accordance with pertinent directives, policies and regulations.

c. Preparing budget estimates and justification, as directed.

d. Preparing and submitting real estate reports as directed.

e. Conducting utilization inspections in accordance with instructions and criteria furnished by the Chief of Engineers.

f. Advising the Chief of Engineers concerning utilization problems which require action at Headquarters, Department of the Army level.

g. Furnishing the Chief of Engineers with copies of all intracommand directives pertaining to space utilization.

6. Theater Commander

a. The commander of a theater of operations is responsible for all real estate activities within the theater (FM 110-10). He may delegate his authority to a designated deputy or to the theater Army, Navy, or Air Force commander. Normally, real estate responsibility will be delegated to the commander having the greatest requirement. This responsibility may in turn be redelegated to subordinate commanders.

b. The decision of the theater commander concerning the conduct of real estate operations provides the basis for all real estate planning, organization, and procedure. A single real estate policy for all the military services, Army, Navy, and Air Force, is essential to insure standardization of operations and procedures.

c. The theater commander may either establish a central real estate office to direct and

record all real estate activities or direct that such an office be established by the commander assigned real estate responsibility.

7. Theater Army Commander

If the theater Army commander is assigned responsibility for all real estate operations he may redelegate this responsibility to the communications zone commander, to include such real estate support as may be required by combat commanders. If deemed desirable he may retain control of real estate operations in the combat zone, redelegating responsibility for rear areas only.

8. Theater Engineer, Theater Logistics Officer, and Theater Army Judge Advocate

a. *Theater Logistics Officer.* Staff supervision of real estate operations is a responsibility of the theater logistics officer (J4 or G4), who formulates real estate policies for consideration by the theater commander, disseminates approved policies to the command, and supervises their execution.

b. *Theater Engineer.*

(1) The theater engineer is charged with the operating function. His duties include—

(a) Furnishing technical real estate guidance and advice to the theater commander, his staff, and all echelons of the theater command.

(b) Recommending real estate policies and operational procedures to the theater logistics officer.

(c) After approval by the theater logistics officer, preparing, coordinating, distributing, and exercising staff supervision over the execution of theater real estate directives.

(d) Acquiring, managing, disposing of, paying rents and damages for, handling claims for, and preparing records and reports for real estate used within the theater.

(e) Maintaining the theater real estate office of record.

(f) Preparing long-range real estate plans for the theater.

- (g) Utilizing local real estate facilities to the greatest extent possible, thus minimizing the need for new construction and reducing theater supply requirements.
 - (h) Exercising staff supervision over the real estate operations within the real estate divisions of subordinate commands.
 - (i) Preparing training directives and supervising schools for training real estate personnel.
 - (j) Insuring compliance with international agreements and the laws of land warfare relating to real estate.
- (2) When the theater commander delegates real estate authority to the theater Army commander, the duties enumerated in (1) above are performed by the theater Army engineer. When the commander of another service is responsible for real estate activities, the appropriate duties listed in (1) above are performed for the Army command by the theater Army engineer.

c. Theater Army Judge Advocate. When the Theater Commander delegates real estate authority to the theater army commander, the theater Army judge advocate has the responsibility for the furnishing of all legal advice to the theater Army G4 and theater Army engineer on real estate operations and the assignment of and technical control over all civilian lawyers and legal officers within the real estate operation. When the commander of another

service is responsible for real estate activities, the theater Army judge advocate has the responsibility for the supervision of all legal advice on real estate operations within the Army command and the assignment of and technical control over all civilian lawyers, judge advocates and legal officers dealing with real estate operations within the Army command.

9. Command Engineers

Engineers of commands below the theater Army engineer are responsible for furnishing technical real estate guidance to their commanders, staffs, and subordinate echelons of the commands. They are also responsible for such other real estate duties as may be assigned or subdelegated to them by the theater Army engineer.

10. Army Engineer Real Estate Teams

Army engineer real estate teams (AERE teams) are responsible to the theater Army engineer for conducting real estate operations within their assigned areas in accordance with the directives, instructions, and standing operating procedures issued by higher headquarters. They are charged with—

- a. Acquiring, managing, and disposing of real estate.
- b. Investigating, processing, and settling real estate claims.
- c. Conducting utilization inspections.
- d. Recording, documenting, and preparing reports of real estate used, occupied, or held by the Army within their assigned areas.

Section III. REAL ESTATE POLICIES

11. Objectives of The Real Estate Program

The efficient conduct of real estate activities depends largely upon a command-wide appreciation of the objectives of the Army real estate program in oversea commands. These objectives are:

- a. To acquire and administer real property essential to the mission of the command.
- b. To insure compliance with international agreements and the laws of land warfare relating to real property.
- c. To make recommendations for use, and to acquire existing facilities in order to keep new construction to a minimum.

d. To protect the United States and its allies against unjust and unreasonable claims and charges for using, renting, or leasing real or personal property.

e. To provide reasonable compensation to the appropriate individual or agency for the use of real property, except when such property is located in a combat zone or in enemy territory.

12. Department of the Army Policy

Real estate operations in oversea theaters of operations conform to the following general principles which form the basis of Department of the Army policy:

a. United States forces will adhere to the provisions of the Hague Convention (1907), the Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949), the Hague Convention Relative to the Protection of Cultural Property in the Event of Armed Conflict (1954), and FM 27-10, the Law of Land Warfare.

b. The real estate program will conform to international agreements, United Nations agreements, and all other agreements affecting the United States, to include, without limitation, treaties, memoranda of understanding, lend-lease, reciprocal aid, military assistance, and civil affairs agreements.

c. When required, a fair and reasonable rental will be paid for real estate used, occupied, and held by the United States Army. Payment for the occupation of lands will not be made to any person or persons who are of enemy nationality and who are hostile to the interests of the United States. Compensation will not be made for any real property located in the combat zone which is lost, damaged, or destroyed as a result of military action.

d. United States forces will give full force and effect, consistent with military requirements, missions, and tactical operations, to—

- (1) The real estate laws of the country.
- (2) The real estate customs of the country, including methods of determining rental, appraisal, and so on.
- (3) The military real estate acquisition and disposal policies and procedures of the

country, particularly when custom provides that military real estate requirements shall be handled by the government, its subdivisions, or agencies.

e. United States forces will utilize existing facilities to the maximum to minimize the need for new construction and conserve time and United States resources and personnel.

f. Real estate acquisitions will be held to an absolute minimum, consistent with military requirements, to prevent disruption of the local economy. Joint utilization of the services will be encouraged and competitive bidding by these services will be prohibited. Unnecessary duplication or overlapping of functions and operating facilities will be avoided. When practicable and economical, the combined real estate requirements of all subordinate commands (for a particular function or a localized area) will be provided by a single subordinate command on either a common or cross-servicing basis.

g. Full use of local governmental agencies will be made, whenever possible, in the acquisition, disposal, collection of data for valuation appraisals, investigation of claims, and preparation of basic real estate records. Acquisition of real estate in an overseas theater of operations will be by lease or rental or both, where the property belongs to an ally and by requisition, confiscation, or seizure where it belongs to the enemy.

Section IV. INTERNATIONAL AGREEMENTS AFFECTING REAL ESTATE

13. Mutual Security Agreements

a. Agreements between the United States and other countries providing for mutual security measures are negotiated by the Department of State, with technical advice and guidance from agencies of the Department of Defense. These agreements may be made between groups of nations joined for mutual defense (as the North Atlantic Treaty Organization (NATO)) or between the United States and individual nations. Regardless of type, all such agreements are devised to insure that due recognition is given to the sovereignty of the

receiving (host) state and that adequate protection is afforded to the United States as a sovereign guest.

b. The provisions of mutual security agreements relating to real estate include such stipulations as the following:

- (1) Land areas and utilities connections, including access roads and rights-of-way, will be provided by the receiving state without cost to the United States. Other expenses will be shared in proportions established by agreement. Unless a specific contract pro-

vides otherwise, the laws of the receiving state will govern all real estate rights and obligations.

- (2) Priorities, rates of consumption, and charges to the United States forces for such services as electric power, sewerage, water supply, communication systems, and freight and personnel transportation by rail will be no more than those established at the date of the agreement for the armed forces and other agencies of the receiving state, including corporations supported by the receiving state.
- (3) The United States forces are authorized to utilize such roads, railways, and areas and to construct, develop, use, and operate such military and supporting facilities as appropriate authorities agree are necessary for mutual security purposes. Permanent structures erected by the United States forces will generally become the property of the receiving state upon proper compensation when the agreement is terminated.
- (4) The United States will retain title to prefabricated buildings and structures, equipment, facilities, materials, and supplies which it determines to be removable and which have been brought into or acquired in the receiving state. This property will be free from all duties, inspections, and other restrictions and from all taxes. The relocation, removal, or disposal of any property by the United States forces will be accomplished in such a way as to avoid damage to the land on which it is situated. When the agreement is terminated the United States will be compensated for the residual value, if any, of installations developed by the United States under the agreement.
- (5) The host state agrees to be responsible for all claims made against the United States Government by a third party in all cases concerning the ownership and utilization of land. Each government waives all its claims against the other for damage to any property owned by it

if the damage was caused by a member of the armed forces or a government employee engaged in the performance of his official duties.

- (6) Agreements with individual nations may include a provision requiring the parties to submit to the International Court of Justice, or to a mutually acceptable arbitrator, questions concerning the interpretation of the agreement which cannot be resolved through the usual channels.

14. United Nations Agreements

When members of the United Nations participate in a military action against an aggressor, an agreement defining real estate responsibilities should be effected with the nation that has been attacked. This agreement includes provisions that establish—

- a. The type and amount of real estate support that will be provided by the nation receiving military assistance from the United Nations and the fundamental policies that will govern real estate operations.

- b. The method of funding payment for the use and occupancy of real estate and for the settlement of claims. Real estate may be provided by the assisted country without cost, or payment may be made by the United Nations executive or agency by proration among all members of the United Nations or by refunds from individual members.

15. Unilateral Policy Statement

The United States may become engaged in hostilities in a friendly country that is not party to any United Nations or United States agreement concerning real estate. To provide for immediate requirements, the commander of the United States forces may issue a statement covering the real estate policies and procedures that will be observed by his command. He then negotiates for a bilateral agreement with the country being assisted. His statement of policy may contain provisions concerning—

- a. Method of processing real estate.
- b. Liability for the use by United States forces of—

- (1) Enemy military-owned, occupied, or requisitioned real estate.

- (2) Real estate owned by the central government and its political subdivisions (equivalent to states, counties, townships, cities, towns, or villages).
- (3) Private property.
- (4) Property owned by foreign nationals (enemy, enemy-allied, United States-allied, neutrals).
- (5) Public utilities and transportation systems, both private and government-owned.
- (6) Schools, churches, hospitals, and similar institutional property.
- (7) Historical monuments or memorials, shrines, or art treasures.